

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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TANGLE INC.,

Plaintiff,

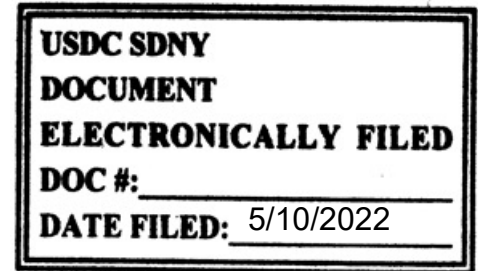
- against -

THE INDIVIDUALS, CORPORATIONS,
LIMITED LIABILITY COMPANIES,
PARTNERSHIPS, AND UNINCORPORATED
ASSOCIATIONS IDENTIFIED ON
SCHEDULE A HERETO,

Defendants.
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21-CV-9352 (LGS) (RWL)

ORDER



ROBERT W. LEHRBURGER, United States Magistrate Judge.

The Court is scheduling an inquest hearing in this matter. Plaintiff seeks an award of statutory damages under the Lanham Act. Statutory damages are available where the infringing conduct involves counterfeit marks. It is not clear to the Court from the exhibits attached as Exhibit B to the Zawitz Declaration that each of the Defaulting Defendants engaged in trademark counterfeiting that would entitle Plaintiff to statutory damages as to each Defaulting Defendant. A counterfeit mark must be spurious, not merely infringing. See 15 U.S.C. 1127 (defining counterfeit mark). It is not readily apparent from the materials submitted that each Defaulting Defendant employed spurious TANGLE marks. Accordingly, at the hearing, Plaintiff should be prepared to explain the basis for such a determination.

Plaintiff may file a supplemental inquest brief by May 24, 2022.

SO ORDERED.

A handwritten signature in black ink, appearing to read 'R. Lehrburger', with a long horizontal stroke extending to the right.

ROBERT W. LEHRBURGER
UNITED STATES MAGISTRATE JUDGE

Dated: May 10, 2022
New York, New York